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LAND AND WATER SUBCOMMITTEE OF THE ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Minutes, June 29, 1999

MEETING MINUTES¹

Meeting Date: July 29, 1999
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Beverly Gard, Chairperson; Sen. Kent Adams; David Benshoof; Randy Edgemon; Larry Kane; Regina Mahoney; Kerry Michael Manders; Alice Schloss; David Bottorf; Mark Palmer; John Kyle; Rae Schnapp; Maggie McShane; Betsy DuSold; Scott Schutte; Glenn Pratt; Mike Frey; Lisa McKinney Goldner; Tonya Galbraith; Melanie Darke; Dr. Thomas Simon; Miriam Dant; Bill Hayden.

Members Absent: Sen. Glenn Howard; Rep. Mark Kruzan; Michael Carnahan; Lynn Waters; Clifford E. Duggan, Jr.; Douglas Bley.

Senator Gard, the chairperson of the EQSC Land and Water Subcommittee, called the meeting to order at 1:04 p.m.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Bruce Palin, Deputy Commissioner-designate of the new Office of Land Quality of the Indiana Department of Environmental Management (IDEM) discussed the subject raised in House Enrolled Act 1919, SECTION 22: **IDEM's Risk Integrated System of Closure (RISC) guidance document.**

Mr. Palin provided an overview of the RISC guidance document and IDEM's actions with respect to that document to date. He made the following points:

- IDEM's development of the RISC guidance document has been an ongoing process, including negotiations with regulated parties and other commenting parties.
- The RISC guidance document is expected to be released following the summaries of the second comment period, which began Feb. 22 and ended June 14. IDEM is currently summarizing and responding to the comments.

Mr. Palin acknowledged that there are still outstanding questions regarding the RISC guidance document and said that IDEM will continue working with persons submitting comments to develop the final draft. He mentioned that significant concerns included:

- how protective the policy should be regarding ground water quality; and
- the need to eliminate inconsistencies between the RISC Technical Guide and User Guide.

According to Mr. Palin, IDEM will try to reach a conclusion with persons submitting comments some time after the beginning of the year. There will then be a six-month transition period following the introduction of the RISC guidance document. Software is being developed in conjunction with the RISC guidance document to help regulated parties to comply with RISC, and it will be released when available.

In response to questions by the Subcommittee, IDEM representatives made the following comments:

- IDEM is categorizing comments and responses to the RISC guidance document to identify concerns and is meeting with persons submitting comments to understand these concerns.
- The RISC document is not set in stone. There is no specific end date or final draft as yet. Revisions will probably be made as the need for them is recognized and IDEM will make efforts to continue its work with all the persons submitting comments to resolve outstanding major issues.
- Whether there will be another draft of the RISC guidance document and an additional comment period will be determined by the types of comments and the persons submitting comments' satisfaction with the changes being made in the current draft. The projected end date for the current comment process is the end of the year. IDEM should have a good idea of the persons submitting comments' concerns by the end of August.
- RISC is very similar to the VRP program, and their basic structures are the same. RISC is oriented toward the integration of all cleanup programs. RISC allows the regulated community to meet flexible thresholds and use updated toxic data.
- IDEM hasn't specifically addressed the consistency in detail of the RISC guidance document with requirements of the federal Resource Conservation and Recovery Act (RCRA) and other cleanup programs. IDEM will work on this issue.
- IDEM has no current intention to change its RISC application on the world wide web. The application might be updated to reflect current exposure data.
- Senator Gard requested IDEM's comments in response to House Enrolled Act 1919, which requires the EQSC to submit a recommendation to the General Assembly as to the circumstances under which IDEM should allow a transition period during which a person

performing an environmental investigation, remediation, or closure could choose to be subject to the rules and policies that were in effect before the publication of the RISC guidance document. She asked to have IDEM's proposal to deal with the RISC transition period at the next Land and Water Subcommittee meeting.

Kari Simonelic, acting chief of IDEM's Water Assessment Branch, provided an overview of a subject addresses in 1999 Senate Enrolled Act 343: **the triennial review of water quality standards**. Ms. Simonelic discussed the triennial review, the current status of IDEM rule-making on water quality standards, and comments received in the rulemaking process. She also addressed issues raised by SEA 343. She distributed a printed outline of her comments.

IDEM noted that it has formed a new Water Quality Advisory Board which will meet **August 11, 10 A.M.**

In response to questions posed by board members, IDEM responded:

- IDEM published a draft rule on mixing zones and received 400 pages of comments that represented a broad spectrum, including comments from EPA Region 5 expressing the view that IDEM's proposal was too flexible. IDEM is working on revisions to the rules in response to the comments.
- IDEM is preparing a fiscal impact statement relating to the new water quality standards rule, using an external contractor. Additional issues will be addressed following the review.
- Specific comments received by IDEM are not currently available for reading on the Internet. IDEM feels it has captured the concept of the persons submitting comments and IDEM staff will provide responses and summaries as needed.
- IDEM is open to addressing issues of flexibility and will need to work with the U.S. EPA to address specific concerns.

Comments from members of the Land and Water Subcommittee included the following:

- The membership of the new Water Quality Advisory Board created by IDEM should adequately reflect the public.
- The creation of another water board may undercut the existing process and delay conclusions.
- The direction that IDEM takes in preparing the new water quality standards rule will influence whether the veto of SEA 343 will be overridden.
- The new Water Quality Board should adequately represent municipalities and should include members with knowledge of technical issues associated with municipal water quality problems.

Bruce Palin then discussed the subject raised in House Enrolled Act 1578, SECTION 9: **the IDEM hazardous waste manifest program**. He said that the IDEM is currently only one month behind in the manifest tracking program, and that IDEM now allows electronic submission of manifest information, thus speeding the handling of the information. He distributed a written version of his remarks.

To questions posed by members IDEM responded:

- No manifest fees are used to fund enforcement staff.
- The focus and operation of the manifest program have shifted.

Comments made by Board members included the following:

- There is no need for the manifest tracking program. Most purposes are already addressed by Federal legislation.
- IDEM should conduct an assessment to determine the efficacy of the manifest tracking program.

Senator Gard announced that at the next full EQSC meeting on August 10, Tom Fiddler and Craig Robertson from Pennsylvania will report on their state's brownfields program and RISC program.

Senator Gard adjourned the meeting at 3:14 p.m.

The next meeting of the Land and Water Subcommittee will be held on **Tuesday, August 24, at 1 p.m.** The location of the meeting will be announced.

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